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June 19, 1996

WRITER'S DIRECT DIAL NUMBER
(202) 508-9562

OUR FILE NO.
25060.74417

VIA MESSENGER

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.; Room 222
Washington, D.C. 20554

Re: CC Docket No. 95-185
CC Docket No. 96-98
Notification of Ex Parte Presentation

Dear Mr. Caton:

On June 18, 1996, undersigned counsel and Dennis Mike Doyle of Arch Communications Group, Inc. ("Arch"), accompanied by Kathleen Abernathy and Brian Kidney of AirTouch Communications, met with Michelle Farquhar and staff to discuss matters relating to the above referenced dockets pertaining to interconnection and compensation for call termination for wireless service providers.

The positions advocated by Arch were consistent with the positions taken by Arch in its Comments and Reply Comments filed with reference to these proceedings. During the course of the meeting, Arch emphasized the need for regulation of LEC-CMRS interconnection by the FCC and that narrowband wireless service providers continue to be subjected to unreasonable rates and discrimination in the negotiation of interconnection agreements.

At the Commission's request, Arch hereby provides a summary of the examples of unreasonable rates and discrimination to which narrowband wireless service

providers are subject,[1/] the Decision of the Department of Public Utility Control of the State of Connecticut in Docket No. 95-04-04 which denies wireless carriers compensation for call termination, and copies of letters sent and received by Arch demonstrating that the abuses discussed above continue to exist.

As the above described meeting was completed late in the afternoon, counsel was unable to file this letter yesterday. To the extent the Commission deems necessary, counsel requests waiver of Section 1.1206(a)(2) of the Commission's Rules requiring same-day submission of the instant letter.

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, one copy of this letter is being submitted herewith. A copy of this letter also is being simultaneously delivered to the above-mentioned Commission staff persons.

Very truly yours,

Christine M. Crowe
for PAUL, HASTINGS, JANOFSKY & WALKER

Enclosures

1/ These examples have been culled from Arch's Comments filed in CC Docket No. 95-185.

The following excerpts have been compiled from Comments filed by Arch Communications Group, Inc. ("Arch") on March 4, 1996 with respect to CC Docket No. 95-185. The examples demonstrate that narrowband wireless service providers have been subject to unreasonable and unjustified pricing and discrimination in the negotiation of interconnection agreements.

In Connecticut, SNET charges Arch a monthly charge for facilities, reflected in SNET's General Subscriber Tariff for private line services, plus a traffic usage charge of $0.0129 ("Type 1 Land-to-Mobile") per minute for the same facility. SNET's Type 1 interconnection facility pricing scheme costs Arch an additional estimated $155 per month per trunk, and provides the LEC with full cost recovery plus contribution for the dedicated facility that connects Arch's paging terminal to SNET's serving wire center ("SWC"). SNET also collects applicable call charges (local and toll) from its customers calling paging telephone numbers provisioned on Arch's Type 1 facilities. SNET's "add on usage charge" is not unique within the LEC industry. Another major LEC assesses Arch a similar usage charge called a "Switched Termination Charge for Interconnection," in addition to monthly recurring charges that apply to dedicated facilities connecting Arch's paging terminals to the LEC's end offices or tandems. Arch is not at liberty to disclose the specific terms of these agreements due to a Confidentiality and Publicity clause within its Interconnection Agreement. (Comments at para. 10).

Further, some LECs increase the costs associated with interconnection by assessing recurring monthly charges for the use of telephone numbers, notwithstanding their lack of ownership of those numbers.[1/] Charges for telephone numbers also vary among interconnection arrangements. Whereas NYNEX assesses no monthly recurring charges for numbers used with Type 1 or DID interconnection services in the State of New

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1/ The FCC Policy Statement on Interconnection of cellular Systems, Memorandum Opinion and Order, FCC 86-85, Appendix B, para. 4 stated in part: "Telephone companies administer the assignment of NXX codes and telephone numbers under the North American Numbering Plan ... they do not "own" codes or numbers... Accordingly, telephone companies may not impose recurring charges solely for the use of numbers."

York,[2/] SNET charges $52 per block of 100 numbers in the State of Connecticut.[3/] In North Carolina,[4/] BellSouth charges CMRS providers $0.50 per block of 100 numbers,[5/] Sprint Mid-Atlantic Telecommunications charges paging carriers $24.00 per block of 100 numbers,[6/] and one small LEC, until it eliminated the recurring monthly charges for numbers after recent negotiations, charged Arch $1.09 per telephone number.[7/] (Comments at para. 11).

In North Carolina, Sprint/Carolina Telephone ("S/CT") charges paging companies $24.00 per month for 100 telephone numbers, which is 34 times more than the $7.00 per month for 1000 numbers S/CT charges to cellular carriers. This disparate treatment has been ongoing since at least 1990 and may have cost the paging carriers of North Carolina hundreds of thousands of dollars more than they would have paid at the rate S/CT charges cellular carriers. The wireless service providers of eastern North Carolina have been attempting to renegotiate the terms and conditions of their interconnection agreements with S/CT's parent company for over nine months. S/CT and its parent company are holding paging companies hostage to this unjust rate while the terms and conditions of a more comprehensive LEC-CMRS interconnection agreement are negotiated. (Comments at para. 43).

2/ New York Telephone Company, P.S.C. No. 900 -- Telephone.

3/ The Southern New England Telephone Company Wireless Interconnection Tariff.

4/ The Arch Company operating in North Carolina is Arch Southeast Communications, Inc. d.b.a. Page South - Carolinas.

5/ BellSouth's North Carolina Connection and Traffic Interchange Agreement ("NCCTIA").

6/ Connection and Traffic Interchange Agreement between Carolina Telephone and Telegraph Company and Arch Southeast communications, Inc. d/b/a Page South. Arch was able to negotiate a lower charge subsequent to the filing of its Comments in CC Docket No. 95-185.

7/ Connection and Traffic Interchange Agreement between North State Telephone Company and Arch Southeast Communications, Inc.

Further, LECs historically have imposed certain charges on NCMRS licensees for interconnection for which neither cost support data nor an adequate explanation of the charges's relationship to the LEC's costs has been provided. One example of such charges is the Control Access Register.[8/] Another example of discrimination includes NYNEX's arrangement pursuant to which it pays cellular carriers for call termination but does not pay paging companies for that same service.[9/] (Comments at para. 44).

8/ BellSouth assesses Arch and other wireless service providers a recurring charge of between $5.00 and $10.00 per trunk for its "Control Access Register Package." The charge is levied against Type 1, Type 2A, Type 2B, Mobile Service Provider ("MSP") Trunks and MSP Lines when provisioned on a DSI Service. A suitable definition of this charge does not appear in BellSouth's tariffs filed in the states of Alabama, Georgia, Kentucky, Mississippi, South Carolina, Louisiana and Tennessee or in BellSouth's interconnection agreement in North Carolina. Moreover, Arch has been unable to obtain from BellSouth appropriate cost data justifying this charge or explaining why this element is priced so inconsistently. The charge varies from state to state (LA - $0.00; GA - $5.00; NC - $6.00; AL - $6.57; MS and SC - $7.50; and TN and KY - $10.00) and does not even appear in BellSouth's Florida tariff. Arch doubts that BellSouth's CAR package charge can be related to similar charges in LEC interstate or intrastate access tariffs.

9/ New York Telephone Company, P.S.C. No. 900 -- Telephone. NYNEX subsequently extended this treatment to two-way mobile service providers in the New England area, but has continued to refuse it to paging companies.

May 7, 1996

Ms. S. Hatton
GTE
FLTC0009
P.O. Box 110
Tampa, FL 33601-0110

Dear Sandy:

Thank you for sending me copies of the proposed interconnection agreements between GTE and USA Mobile in Alabama and Ohio. As we discussed, I have some concerns and questions regarding these Agreements.

First, the "Tandem Connection Charge" should be eliminated. It is an inappropriate and discriminatory charge. Please explain the cost justification for this charge and why paging carriers and not cellular carriers are assessed this charge.

Second, please provide additional information regarding Dedicated, Distributed and Honored NXX codes. The AL and OH Interconnection Agreements have inconsistent definitions for these terms. Also, please identify, if possible, the Dothan, AL and Portsmouth, OH LATA boundaries and the related GTE/LEC service areas and tandem/end office serving arrangements.

Third, the CO code activation time frames identified in both Agreements do not conform with current NXX code activation intervals (see Central Office Code - NXX- Assignment Guidelines).

Fourth, the Interconnection Agreement for Dothan, AL does not reference Wide Area Paging Arrangements (WAP). Is a WAP arrangement a reverse billing arrangement and what interconnection facilities support this service (i.e., Type 1 and or Type 2A, Dedicated NXX, Distributed NXX, Honored NXX)?

GTE and Arch Communication's Group Inc. (i.e., Arch completed it's acquisition of USA Mobile on September 7, 1995), have expressed significantly different opinions regarding the terms and conditions that should or should not apply relative to *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers* (CC Docket No. 95-185). These differences will eventually be resolved either in accordance with a decision in this Docket or via provisions of the Telecommunication's Act of 1996, however, USA Mobile has immediate interconnection needs and can not afford to wait until these fundamentals differences get resolved.

I look forward to your response so that we may move forward with the USA Mobile Requests.

Sincerely,

D. M. Doyle

cc: M. Curd
P. H. Kuzia

ARCH

May 20, 1996

Mr. John P. Sullivan
Director of Sales, Wireless Interconnection Services
NYNEX
222 Bloomingdale Road
White Plains, NY 10605

Dear Mr. Sullivan:

Thank you for your May 9, 1996 letter advising Arch Communications about NYNEX's offer of reciprocal compensation to Wireless Service Providers. Arch is concerned, however, that NYNEX's reciprocal arrangements appear to exclude paging and Narrowband Personal Communications Service (NPCS) providers from participating in these agreements. Would you please clarify NYNEX's intention in this matter.

These Agreements, as currently structured, discriminate against paging companies who compete with cellular, SMR and PCS providers and violate Section 251 of the Telecommunications Act of 1996 (ACT). Unless NYNEX amends such Agreements to include comparable compensation arrangements for Paging and NPCS providers, Arch will oppose adoption of the Agreements under Section 252 of the ACT.

I would appreciate an acknowledgment and response to this letter prior to May 31, 1996. Should you have any questions, in the interim, please call me at 508-870-6600 or Mike Doyle at 508-870-6612.

Sincerely,

Paul H. Kuzia
Vice President, Engineering & Regulatory Affairs

PHK/dmda

NYNEX
222 Bloomingdale Road, White Plains, NY 10605
Tel 914 644 4796
Fax 914 681 0902

John P. Sullivan
Director of Sales
Wireless Interconnection Services

NYNEX

June 4, 1996

Mr. Paul H. Kuzia
Vice President, Engineering & Regulatory Affairs
Arch Communications Group, Inc.
1800 West Park Drive, Suite 350
Westborough, MA 01581

Dear Mr. Kuzia,

Thank you for your letter dated May 20, 1996 regarding Arch Communication's view of reciprocal compensation as addressed in the Telecommunications Act of 1996. Per your request, I am writing to clarify NYNEX's position in this matter.

In your letter you assert an obligation with respect to newly- enacted Section 251 for NYNEX to provide reciprocal compensation for LEC calls terminating to paging and Narrowband Personal Communications Service providers. As you may know, the FCC is specifically considering whether Section 251 applies to LEC interconnection with non-voice and one-way wireless services in its active proceedings in Docket Nos. 95-185 and 96-98.

With all respect for your position that Section 251 applies to such services, we take a different view. Simply stated, the LEC obligation for reciprocal compensation under Section is owed to interconnecting carriers for exchange service and exchange access, and one-way narrowband services by definition do not provide customers with the "intercommunicating service" that is integral to exchange service under the Act (Section 3(47)). See, Docket 96-98, NYNEX Comments p.23, NYNEX Reply Comments p.12; see, also Arch Comments p.16 (Arch does not provide exchange service). Put another way, the private narrowband network is not part of the "network of networks" that enables the calling wireline (or two-way wireless) customer to intercommunicate directly with the paging customer, as I understand most --if not all-- narrowband networks are designed today. Instead, the calling customer is terminated to the narrowband provider, and a new and separate call is generated by that provider over its own private network to its private customer. To intercommunicate, this private customer must subsequently access a station on the wholly different, public network (of networks). NYNEX Reply Comments pp.24-25, Docket 95-185.

Accordingly, it is our view that NYNEX is not obligated to offer Arch Communications Group, Inc. any agreements for reciprocal compensation for these services.

Please be assured that we greatly value your business and appreciate this opportunity to explain our viewpoint regarding this matter.

If I can be of further assistance, please contact me at 914-644-4796 or Susan Richards, your Wireless Account Manager at 617-342-0323 regarding any questions you may have regarding the above information.

Sincerely,

John P. Sullivan

John P. Sullivan
Director of Sales, Wireless Interconnection Services

cc: Susan Richards
Don Rowe

NYNEX
222 Bloomingdale Road, White Plains, NY 10605
Tel 914 644 4796
Fax 914 681 0902
Voicemail 1 800 872 0251 Ext 4796

John P. Sullivan
Director of Sales, Wireless Interconnection Services

NYNEX

May 9, 1996

Mr. Mike Doyle
Arch Communications
1800 West Park Drive Suite 350
Westborough, MA 01581

Dear Mr. Doyle:

In our continuing effort to offer competitive interconnection rates, NYNEX is pleased to announce the following pricing changes for our Wireless customers. To follow are the highlights as they pertain to the New York and New England regions. In addition, several agreements and a more comprehensive summary of the compensation plan have been enclosed. Please review the documents to determine which will apply to your company and return the required documentation to me at your earliest convenience.

NEW ENGLAND

As of May 1, 1996 reciprocal compensation will be offered to all Cellular, PCS and SMR providers in ME, MA, NH, RI, and VT. Carriers will now be compensated for all intra-lata Type 2 calls that originate on the NYNEX network. The actual compensation rate will vary by state but will equal the Type 2 terminating rates. Reciprocal Compensation will be under contract at the state level. Carriers will need to return multiple contracts if they are doing business in several of the New England States. In addition, the requirements outlined in the enclosed documentation must also be met. Carriers returning signed contracts prior to June 1, 1996 will receive compensation retroactive to May 1, 1996.

NEW YORK

On April 3, 1996 NYNEX filed a time of day rate structure for New York. Provided there are no regulatory interventions, this will become effective on May 4, 1996 under the PSC 900 Tariff. The time of day price discounts will apply to all intralata Type 2 minutes of use. The chart below outlines the time periods and applicable rates.

TIME PERIOD	EFFECTIVE HOURS FROM/TO BUT NOT INCLUDING	DAYS APPLICABLE	RATE
Day	8:00AM-9:00PM	Monday-Friday	$.0259
Eve	9:00PM-11:00PM	Monday-Friday	$.0184
Night	11:00PM-8:00AM	Monday-Thursday	$.0103
	11:00PM-8:00AM	Weekend(Fri PM/Mon AM)	$.0103

In addition, the reciprocal compensation rate for New York will be adjusted to reflect the time of day rate structure. As of May 4, 1996 eligible carriers will receive $.022 per minute. This rate was calculated based on a usage distribution of 70% day, 20% evening and 10% night.

If you have any questions, please contact me at (914)644-4796 or your Account Manager.

Sincerely,

John P. Sullivan

ARCH

April 25, 1996

Ms. Kathleen Davids
Rochester Telephone Company
180 South Clinton Avenue
Rochester NY 14646-0004

Dear Ms. Davids:

Please accept this letter as Arch Communication Group's formal request to Rochester Telephone Company (RTC) to discontinue its policy of assessing monthly recurring charges for the telephone numbers Arch uses to provision its paging services. NYNEX, in New York, has adopted this practice and no longer charges commercial mobile radio service providers for telephone numbers.

The provision of telephone numbers is an integral component of interconnection and RTC's monthly charge of $14.04 per 100 numbers is unjustifiably high and places an extreme economic burden on the provisioning of paging service. RTC's immediate adoption of a "no charge" policy for telephone numbers would certainly be appreciated by Arch and would be in keeping with the spirit of the Telecommunications Act of 1996.

Please circulate this letter within your organization so that Arch may be notified by May 6, 1996, of RTC's position on this matter.

Sincerely,

Dennis M. Doyle

cc: P. H. Kuzia

Davids

180 South Clinton Avenue
Rochester, New York 14646

RochesterTelephone Corp.

May 22,1996

Mr. Dennis Mike Doyle
Arch Communications Group Incorporated
1800 West Park Drive, Suite 350
Westborough, Massachusetts 01581

Dear Mike,

Thank you for inquirying about the possibility of reducing number range charges at Rochester Telephone Corporation. I referred your letter of request to our Regulatory Department and received the response that there is no plan to drop those charges for the groups of 100 numbers at this time.

If you have any questions, please call me at 716-777-5859 or fax to me at 716-325-1406.

Sincerely,

Kathleen B. Davids

Kathleen B. Davids
Intracompany Service Coordinator

EXHIBIT 4

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
ONE CENTRAL PARK PLAZA
NEW BRITAIN, CT 06051

DOCKET NO. 95-04-04 DPUC INVESTIGATION INTO WIRELESS MUTUAL COMPENSATION PLANS

September 22, 1995

By the following Commissioners:

Thomas M. Benedict
Reginald J. Smith
Jack R. Goldberg

DECISION

DECISION

I. INTRODUCTION

On July 1, 1994, Public Act 94-83, "An Act Implementing The Recommendations Of The Telecommunications Task Force" (the Public Act or Act), became Connecticut law. The Act is a broad strategic response to the changes facing the telecommunications industry in Connecticut The technological underpinnings, the framework for a more participative, and ultimately more competitive, telecommunications market, and the role of regulation envisioned by the legislature are essential to the future realization and public benefit of an "Information Superhighway" in Connecticut.

At the core of the Public Act are the principles and goals articulated therein. Section 2 (a) of the Act provides in pertinent part:

> Due to the following: affordable, high quality telecommunications services that meet the needs of individuals and businesses in the state are necessary and vital to the welfare and development of our society; the efficient provision of modern telecommunications services by multiple providers will promote economic development in the state; expanded employment opportunities for residents of the state in the provision of telecommunications services benefit the society and economy of the state; and advanced telecommunications services enhance the delivery of services by public and not-for-profit institutions, it is, therefore, the goal of the state to (1) ensure the universal availability and accessibility of high quality, affordable telecommunications services to all residents and businesses in the state, (2) promote the development of effective competition as a means of providing customers with the widest possible choice of services, (3) utilize forms of regulation commensurate with the level of competition in the relevant telecommunications service market, (4) facilitate the efficient development and deployment of an advanced telecommunications infrastructure, including open networks with maximum interoperability and interconnectivity, (5) encourage shared use of existing facilities and cooperative development of new facilities where legally possible, and technically and economically feasible, and (6) ensure that providers of telecommunications services in the state provide high quality customer service and high quality technical service.

Conn. Gen. Stat. § 16-247a (a).

The central premise of the legislation is that broader participation in the Connecticut telecommunications market will be more beneficial to the public than will broader regulation. It is significant, however, that the Act does not chart a detailed plan for realization of its goals and compliance with its principles. Rather, the Act entrusts the Department of Public Utility Control (Department) with the responsibility of implementing both the letter and spirit of its important provisions; the Act thus endows

the Department with broad powers and procedural latitude as it seeks to achieve the legislative goals through the facilitation of the development of competition for all telecommunications services.

In light of the Public Act, the Department's efforts must facilitate market conditions and create regulatory conditions that will maximize the benefits of future competition for the user public of Connecticut. As articulated by the Department's Chairman, Reginald J. Smith, during the June 23, 1994 technical meeting in Docket No. 94-05-26, General Implementation of Public Act 94-83, the passage of Public Act 94-83 places the Department and the telecommunications industry at an unprecedented point in Connecticut regulatory history with an opportunity to define a markedly different future for Connecticut telecommunications. The Department, therefore, established a framework for the implementation of Public Act 94-83 that would allow it the opportunity to fully and publicly explore all the alternatives available to it under the terms and conditions of the legislation and establish therefrom appropriate regulatory mechanisms to effect the legislative intent that telecommunications services be regulated "in a manner designed to foster competition and protect the public interest." The implementation framework involves four phases the initial conceptual infrastructure phase, the competition phase, the alternative regulation phase and the holding company affiliate phase.

The Conceptual Infrastructure Phase consisted of Docket No. 94-07-01, The Vision For Connecticut's Telecommunications Infrastructure, in which a Decision was issued on November 1, 1994. The Department initiated that docket in recognition of the fact that effective and efficient implementation of Public Act 94-83 required at the outset an investigation of the state's telecommunications infrastructure which is the foundation for the provision of all telecommunications services. In its Decision, therefore, the Department identified the attributes that will be required of any future infrastructure to achieve the Act's goals, articulated intended Department initiatives to facilitate the development of a future infrastructure that exhibits those identified attributes and identified issues to be more fully explored in subsequent implementation dockets.

To begin the Competition Phase, in July of 1994, the Department initiated eight highly focused, limited discovery dockets to address the issues raised by the legislature's commitment to broader market participation in Connecticut: Docket No. 94-07-02, Development of the Assumptions, Tests, Analysis, and Review to Govern Telecommunications Service Reclassifications in Light of the 8 Criteria Set Forth in Section 6 of Public Act 94-83; Docket No. 94-07-03, DPUC Review of Procedures Regarding the Certification of Telecommunications Companies and of Procedures Regarding Requests by Certified Telecommunications Companies to Expand Authority Granted in Certificates of Public Convenience and Necessity; Docket No. 94-07-04, DPUC Investigation into the Competitive Provision of Local Exchange Service in Connecticut; Docket No. 94-07-05, DPUC Investigation into the Competitive Provision of Customer Owned Coin Operated Telephone Service in Connecticut; Docket No. 94-07-06, DPUC Investigation into the Competitive Provision of Alternative Operator Service in Connecticut; Docket No. 94-07-07, DPUC Investigation of Local Service Options, Including Basic Telecommunications Service Policy Issues and the Definition

and Components of Basic Telecommunications Service; Docket No. 94-07-08, DPUC Exploration of Universal Service Policy Issues; and Docket No. 94-07-09, DPUC Exploration of the Lifeline Program Policy Issues. Those proceedings have been completed and Final Decisions issued.

The Competition Phase also consists of currently opened dockets regarding the Conn. Gen. Stat. § 16-247b mandate to unbundle "the noncompetitive and emerging competitive functions of a telecommunications company's local telecommunications network that are used to provide telecommunications services and which . . . are reasonably capable of being tariffed and offered as separate services." Docket No. 94-10-02, DPUC Investigation into the Unbundling of the Southern New England Telephone Company's Local Telecommunications Network (Final Decision issued on September 22, 1995); Docket No. 94-11-03, DPUC Investigation into the Unbundling of the New York Telephone Company's Local Telecommunications Network; and Docket No. 94-11-06, DPUC Investigation into the Unbundling of the Woodbury Telephone Company's Local Telecommunications Network (the latter two dockets are currently in development stages).

At the request of the participants in the unbundling proceedings, the Department initiated the instant docket to separately examine the issue of mutual compensation as applied to wireless carriers. In agreeing to examine this issue separately from discussions of wireline compensation, the Department did not suggest that it had concluded that sufficient differences exist between wireless service providers and wireline service providers to warrant fundamentally different compensation eligibility requirements or methodologies. Instead, the Department conceded to the request for a separate inquiry as a courtesy to the participants' interest in examining the associated issues of each in a more expeditious manner than was possible with a combined investigation.

In addition to the unbundling proceedings and the wireless compensation investigation, the Competition Phase will include a companion investigation of selective participative architecture issues that will impact the achievement of competition as discussed by this Department in Docket No. 94-07-01 and which emerge in consequence of the unbundling dockets. A docket for that investigation has been opened, Docket No. 94-10-04, DPUC Investigation into Participative Architecture Issues. The Department will also sponsor an examination of quality of service performance standards compelled by changes in provider responsibilities in a participative market such as that envisioned by Public Act 94-83.

Critical to effective implementation of both the Competition Phase and the Alternative Regulation Phase, which are being conducted concurrently, the Department initiated individual investigations of each of the state's incumbent telephone companies' (local exchange carriers (LECs)) costs of providing telecommunications services for the expressed purpose of constructing a financial and procedural framework for use by the Department in evaluating the unbundling and pricing initiatives to be later proposed by those telephone companies. Docket No. 94-10-01, DPUC Investigation into The Southern New England Telephone Company's Cost of Providing Service (Final

Decision issued on June 15, 1995); Docket No. 94-11-02, DPUC Investigation into the New York Telephone Company's Cost of Providing Service; and Docket No. 94-11-05, DPUC Investigation into the Woodbury Telephone Company's Cost of Providing Service (the latter two dockets are currently in development stages). With similar intent, the Department initiated individual companion dockets to review each local exchange carrier's depreciation policies and practices. Docket No. 94-10-03, DPUC Investigation into The Southern New England Telephone Company's Intrastate Depreciation Rates (Draft Decision to be issued on or about September 26, 1995); Docket No. 94-11-04, DPUC Investigation into The New York Telephone Company's Intrastate Depreciation Rates; and Docket No. 94-11-07, DPUC Investigation into The Woodbury Telephone Company's Intrastate Depreciation Rates (the latter two dockets are currently in development stages). In addition to their importance to this and other unbundling proceedings, the detailed financial reviews are essential to full and fair examination of the impact upon competition of any alternative regulatory framework or treatment of the local exchange carrier community by this Department in the future. Findings, conclusions and recommendations of this Department developed in the context of these proceedings will serve as a foundation in future proceedings wherein the Department will consider specific requests filed by the incumbent telephone companies for increased discretionary authority and proscribed regulatory participation in the telecommunications services business. The Southern New England Telephone Company has filed such a request for alternative regulation with this Department, which request is currently under review and consideration in Docket No. 95-03-01, Application of The Southern New England Telephone Company for Financial Review and Proposed Framework for Alternative Regulation.

Finally, the Department has initiated Docket No. 94-10-05, DPUC Investigation of The Southern New England Telephone Company Affiliate Matters Associated with the Implementation of Public Act 94-83. In this proceeding the Department will examine the financial, structural and operational impact of broader competition and of any increased discretionary authority that may be provided SNET by the past and future actions of this Department. Although the docket is currently open, the Department has deferred active investigation of holding company structure and affiliate relationships to a point closer to the end of the implementation period, thereby permitting construction of a better set of preliminary policies to guide the Department's investigation and to give the participants a more definitive planning framework for the future.

Public Act 94-83 presents a significant challenge to a number of regulatory principles that historically have guided Department decisions. Earlier statutory authority specifically focused on maximizing public benefit of telephonic technology by authorizing only a single telecommunications service provider for any given market. The Department, therefore, was able to direct the attention solely at regulating the conduct of a single provider against a desired public standard of reasonably affordable and readily available telephone service. Under provisions of Public Act 94-83, the Department faces an unprecedented task of managing the introduction of broader participation into a heretofore single-provider market without unduly risking the availability, accessibility and affordability of basic telecommunications services to all Connecticut users. The Department intentionally designed the implementation process

to chart an orderly transition to effective competition such that the full scope and scale of benefits envisioned by the Connecticut legislature in enacting Public Act 94-83 may be realized. The Department's implementation decisions to date have consistently reflected its stated commitment to establishing a regulatory framework that affords fair competition among incumbent providers and new competitors while protecting the Connecticut public's interest in highly accessible, readily available and reasonably affordable telecommunications services.

II. DOCKET SCOPE AND PROCEDURE

On March 31, 1995, pursuant to the Department's prior directives in Docket No. 94-10-02, Docket No. 94-10-04 and Docket No. 94-08-02, Application of the Southern New England Telephone Company to Offer a Generic Wireless Interconnection Service, the Southern New England Telephone Company (SNET), submitted a proposed mutual compensation plan for wireline and wireless services for consideration by this Department. SNET stated that its proposed mutual compensation plan for the wireless carriers (hereafter referred to as WCP or the Plan) was developed in concert with the proposed compensation plan for certified local exchange carriers (CLECs) introduced separately in Docket No. 94-10-02. According to SNET, the WCP was designed to establish a compensation plan that would provide for each network participant to be compensated commensurate with any use by a provider to complete a local call on another provider's network. Though the proposed Plan is similar in design to the wireline compensation plan submitted by SNET in Docket No. 94-10-02, the WCP limits eligibility for compensation to network providers that are licensed by the Federal Communications Commission (FCC) under Parts 22 and 90 of the FCC's rules and that operate a switching facility which exchanges both originating and terminating local voice/data calls with SNET. WCP, p. 2. Of the interested participants in this proceeding, only Bell Atlantic NYNEX Mobile, Litchfield Acquisition Corporation, Springwich Cellular Limited Partnership and Nextel Communications, Inc. currently meet the licensing qualification proposed in SNET's WCP.

At the April 5, 1995 Technical Meeting in Docket No. 94-10-02, pursuant to the participants' request, the Department established the instant proceeding to further investigate the need for, and constructs of, any mutual compensation plan for wireless telecommunications services. As noted above, the compensation issue was separated from Docket No. 94-10-02 at the participants' request, in order to afford full and fair opportunity to examine the wireless mutual compensation issue and to avoid any unnecessary delay in the investigation of the issues in Docket No. 94-10-02. Tr. 4/5/95, p. 219. Pursuant to Notice dated May 11, 1995, the Department announced its intention to hold a public hearing on May 24, 1995, to consider fully the matter of mutual compensation for wireless carriers. On May 15, 1995, parties and intervenors to the instant docket submitted to the Department a Motion for Extension of Time and Modification of the Hearing Schedule (Motion) [1] The Motion requested among other

[1] The Motion was submitted by the Southern New England Telephone Company, Bell Atlantic NYNEX Mobile, Springwich Cellular L.P., Litchfield Acquisition Corporation and Nextel Communications, Inc

things that the public hearing scheduled for May 24, 1995, focus solely on the eligibility for mutual compensation of wireless paging services Motion, p. 3.[2] The Motion was granted on May 24, 1995. Accordingly, after hearing which was continued without date, the Department issued an Interim Draft Decision on June 5, 1995, addressing the limited issue of mutual compensation eligibility requirements for paging services. All participants were afforded opportunity to submit written exceptions and present oral argument on the Interim Draft Decision; all participants waived the right to present oral argument.

Pursuant to Notice dated June 26, 1995, the Department continued the hearing in this matter to July 27, 1995. The scope of that hearing was consideration of whether cellular carriers, Specialized Mobile Radio (SMR) providers, Personal Communication Service (PCS) providers and Enhanced Mobile Radio Service (ESMR) providers are eligible for mutual compensation.

The Department issued a Second Draft Decision in this docket on September 1, 1995, addressing wireless mutual compensation issues for all wireless services, i.e. paging service, cellular service, Specialized Mobile Radio (SMR) service, Personal Communication Service (PCS) and Enhanced Mobile Radio Service (ESMR). Pursuant to Notice, all parties and intervenors were afforded opportunity to file written exceptions and to present oral argument on the Second Draft Decision. All participants waived the right to present oral argument..

III. POSITIONS OF PARTICIPANTS

A. THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY (SNET)

SNET proposes to limit eligibility for mutual compensation to those service providers licensed by the FCC pursuant to the terms, conditions and qualifications prescribed by the FCC rules, Parts 22 or 90. SNET further limits the universe of eligible participants to those that own and operate a switching facility that exchanges both originating and terminating local voice/data calls with SNET.[3] SNET states that the

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[2] On May 16, 1995, Paging Network, Inc. objected to the Motion because it did not consider the rights and involvement of paging carriers in this proceeding Specifically, the paging carriers were not afforded the opportunity to file rebuttal testimony.

[3] Such a limitation would exclude paging services from mutual compensation, because the paging terminal is not a switching facility. OCC states that traffic sent to a LEC, CLEC or cellular provider is terminated on the paging provider's transmission network. According to OCC, pagers also incur termination costs regardless of whether their facility is designated as a switching facility. Collins Testimony, p. 6. Message Center Beepers (MCB) argues that SNET's requirements for qualification for mutual compensation based upon access to operator services and E911 capability are irrelevant and unfounded. MCB maintains that wireless paging carriers are entitled to mutual compensation as any other FCC licensed commercial mobile radio service (CMRS) wireless provider. Jubon Rebuttal Testimony, p. 2. Paging Network, Inc. likewise disagrees with the SNET proposal and states that SNET limits compensation to wireless carriers in artificial and inequitable ways by requiring the operation of a switching facility which both originates and terminates local calls with SNET. Jackson Testimony, p. 8.

WCP provides compensation to wireless carriers at a level that is commensurate with the costs incurred by the interconnected provider to terminate a local call. According to SNET, the concept of mutual compensation assumes a co-carrier relationship between SNET and the interconnected network provider where there is a mutual exchange of traffic between the respective parties and shared public interest responsibilities such as E911.

B. OFFICE OF CONSUMER COUNSEL (OCC)

OCC states in its limited submission that all providers of wireless services, irrespective of the basis for their licensing authority, should be compensated as co-carriers in every instance where they terminate incoming telecommunications traffic. OCC, therefore, makes no distinction in its eligibility requirements among paging service providers, cellular service providers, commercial mobile radio service providers, specialized mobile radio service providers or personal communications services providers, arguing that all should be considered co-carriers. According to OCC, the FCC has specifically concluded that wireless carriers are co-carriers, not customers, and are rightfully entitled to be treated as such in the network. Collins Testimony, p. 5.

C. MESSAGE CENTER BEEPERS (MCB)

MCB argues that all FCC licensed CMRS providers are entitled, by FCC order (Second Report and Order of Docket No. 93-252, In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act) to mutual compensation for handling interstate traffic. MCB suggests there is no reasonable basis for differentiating between the responsibilities of CMRS firms in transporting interstate traffic and intrastate traffic that would support different treatment by this Department. MCB, therefore, recommends that eligibility requirements for mutual compensation for transporting intrastate traffic be no different from those used by the FCC for interstate traffic. Furthermore, MCB proposes that wireless service providers be compensated by, and provide compensation to, other local providers using a set of rate elements common to all local service providers irrespective of whether they are wireline-based or wireless-based service providers. Jubon Testimony p. 15.

E. PAGING NETWORK, INC. (PAGENET)

Pagenet suggests in its submissions that paging services providers originate and terminate communications traffic in a manner that mirrors the services provided by LECs, CLECs, cellular services providers and others. Pagenet contends that whether a call is terminated on a wireline network or any one of a number of alternative wireless networks, it is still by definition a call. Therefore, by such an accepted definition, paging services providers are rightfully entitled to compensation for the termination on their paging networks of calls originated on any other provider's network. Pagenet maintains that SNET's specific Plan purposefully limits compensation to wireless carriers by imposing artificial qualifications and inequitable treatment of market participants. Specifically, Pagenet objects to any requirement that an eligible party operate a switching facility which both originates and terminates local calls with SNET. According

to Pagenet, the requirement to both originate and terminate local voice/data calls with SNET is extremely prohibitive and may unfairly exclude paging carriers from receiving fair compensation for the costs incurred by it for terminating call traffic placed to its network. Pagenet argues that paging services providers should be appropriately compensated for the functions they provide on both a technical and equitable basis. According to Pagenet, it is discriminatory for SNET to unilaterally exclude paging services from compensation by imposing artificial requirements. Jackson Testimony, pp. 7-9.

F. NEXTEL COMMUNICATIONS, INC. (NEXTEL)

Nextel describes itself as a "digital mobile telephone and alphanumeric messaging services" provider in Connecticut. According to Nextel, such services are provided via use of Nextel facilities and interconnection with the Public Switched Telephone Network. Nextel also provides dispatch services that employ wireless technologies and make no use of public switched network services. Nextel operates under authority granted it by the FCC pursuant to Specialized Mobile Radio licenses issued under the terms, conditions and qualifications of Pt. 90 of FCC rules. Nextel Written Exceptions to Interim Draft Decision, pp. 1-2.

Nextel submits that the FCC has purposefully preempted state and local regulation of LEC interconnection to CMRS providers. According to Nextel, the FCC ruled that as part of the terms of reasonable interconnection, LECs must provide mutual compensation to CMRS providers, including compensation to such providers for all calls terminated on their network. Id., pp. 8-10. Nextel suggests that these actions by the FCC will limit the scope of any independent action that this Department might consider or impose upon the participants.

G. LITCHFIELD ACQUISITION CORPORATION (LITCHFIELD)

Litchfield Acquisition constructs its submission in this proceeding upon the implicit conclusion that some form of compensation is appropriate between LECs and cellular services providers. However, Litchfield does not pursue the question of whether interconnected network providers other than cellular services providers are equally entitled to compensation. Furthermore, Litchfield suggests that a compensation plan must promote the fundamental legislative goals of reasonable and affordable telecommunications services. To this end, Litchfield advocates three principles for pricing the interchange of traffic:

> First, each carrier should bear the costs of providing service from and to its users to the point of carrier network interconnection. Second, prices charged, if any, should reflect the costs incurred by each carrier in terminating traffic originated on the other carrier's system. The costs of the landline incumbent local carrier function [serve] as a reasonable surrogate for the costs of the cellular system. Third, compensation should be mutual. Because the cellular carrier pays the landline carrier charges for completing the traffic from the cellular network then the landline carrier should pay cellular carriers when landline customers make calls that are completed on the cellular system.

Mounsey Testimony, pp. 2-3.

Litchfield, therefore, asserts that, contrary to SNET's contention, there is no technical reason why interconnection between wireline and wireless carriers should be handled any differently between different local wireline carriers. According to Litchfield, wireline, wireless and, in the future, PCS providers should all be treated equally as they all interconnect in the same way and all provide a common carrier service within local service areas. Id., p. 3.

H. SPRINGWICH CELLULAR LIMITED PARTNERSHIP (SPRINGWICH)

Springwich defines mutual compensation as an administrative mechanism through which co-carriers compensate each other for terminating each other's traffic. Furthermore, Springwich suggests that mutual compensation is necessary to facilitate competitive development. However, for compensation to be "mutual," Springwich believes that co-carriers must offer to compensate each other at the same rate for the same component of service provided by the other party. In this way, according to Springwich, both carriers will have adequate incentive to fulfill their responsibilities in the most efficient manner possible. Separately, Springwich submits that wireless/landline mutual compensation need not necessarily be set at the same level or employ the same pricing structure as mutual compensation between competitive landline service providers; however, Springwich strongly recommends to the Department that the structures and level of wireless/landline mutual compensation be configured in such a way as not to promote bypass of the landline network. Mangini Testimony, pp. 3-4.

I. BELL ATLANTIC NYNEX MOBILE (BELL ATLANTIC)

Bell Atlantic asserts that the discussion presented in this proceeding about the need for and use of a mutual compensation mechanism is tacit recognition by the industry and the regulatory community that the responsibility for effectuating completion of a call from origination to termination will be a shared responsibility of many providers -- each of whom will incur a certain element of cost in performing its respective responsibilities. According to Bell Atlantic, mutual compensation is generally considered to be the manner by which each network participant is compensated for its network contribution to the termination of telecommunications messages. Bell Atlantic

asserts that under a preferred mutual compensation plan, each carrier would be fairly compensated for the use of its network to complete the call. Mullin Testimony, p. 3.

Bell Atlantic criticizes SNET's Plan for proposing to compensate wireless carriers only for a relatively narrow category of telecommunications traffic, i.e. calls which originate on SNET's network and are delivered to a wireless carrier by SNET on Type II - Land to Mobile access facilities. According to Bell Atlantic, this represents an extremely limited subset of all communications traffic between carriers and fails to adequately recognize the level of expense incurred by the interconnected carriers in supporting other types of communications traffic. Specifically, Bell Atlantic argues that the Plan fails to offer compensation to wireless carriers for any call delivered to the wireless carrier by SNET (1) over Type I Access facilities; (2) over Type II Access facilities, but using another interexchange carrier (IXC) to carry the interexchange portion of the call; and (3) over Type II Access facilities originating from CLECs. Bell Atlantic argues that the Plan constitutes a purposeful exclusion by SNET of a significant amount of traffic terminated by wireless carriers, thereby compounding any inequity presented by SNET's proposed mutual compensation plan. Id., pp. 4-6.

IV. DEPARTMENT ANALYSIS

A. INTRODUCTION

In its January 11, 1995 Decision in Docket No. 94-08-02, the Department directed SNET to develop and present to this Department for consideration a mutual compensation plan. The Department also directed SNET to continue its discussions with the various wireline and wireless carriers and ultimately address in its proposal, to the extent possible, the respective needs and concerns of the affected providers. January 11, 1995 Decision, p. 22. On March 31, 1995, SNET filed with the Department in Docket No. 94-10-02, a proposed mutual compensation plan for wireless carriers.

The proposed Plan offered by SNET is purposefully designed to mirror the proposed wireline compensation structure and access charge structure also submitted by SNET in Docket No. 94-10-02. SNET Wireless Mutual Compensation Plan, p. 2. SNET acknowledges that some differences in the manner in which wireless carriers functionally and technically interconnect with the SNET switched network result in a less than perfect cost match with interconnections between wireline carriers. SNET is of the opinion, however, that application of the same criteria for mutual compensation to wireless carriers as proposed for the CLECs in Docket No. 94-10-02 is appropriate. SNET also contends that the rate to be paid to wireless carriers for traffic terminated on their network should be the same rate as that imposed on CLECs, unless the individual companies agree on a different rate. Fawcett Testimony, p. 2.